

Property Tax - Opinion - Real Estate Transfer Tax

MEMO

To: Dale Hyman and Jim Moyle, Property Tax Division, and Iowa Recorders

From: Ed Henderson, Policy Section

Date: October 28, 2008

Subject: Real Estate Transfer Tax

Statutes and Rules:

Iowa Code Chapter 428A and rule 701—Chapter 79, Iowa Administrative Code.

Facts:

A number of county recorders have had some disputes with conveyors of real estate as to whether the conveyances are subject to the real estate transfer tax imposed in Iowa Code section 428A.1.

Issue:

Some recorders have requested direction from the Property Tax Division as to how they can best solve this problem.

Determination:

The county recorder has the responsibility under Iowa Code section 428A.1 to determine the amount of tax if the conveyance of real state is subject to tax. The amount of the real estate transfer tax is based on the amount of “consideration” paid for the real estate. If the amount of consideration is not disclosed to the recorder and the conveyance is subject to the tax, the recorder should refuse to record the document as provided in section 428A.4.

If the conveyance is not subject to tax, the grantor or grantee of the real estate is required under section 428A.4 to file with the document, or endorse on the document, that the conveyance falls within one of the exceptions listed in section 428A.2. The recorder should require the grantor or the grantee of the conveyance to identify the specific subsection of section 428A.2 that excepts the conveyance from tax and if necessary to provide documentation substantiating the reason the exception applies—See subrule 79.1(4).